

**ORDER NO. 79495**

IN THE MATTER OF THE POTOMAC EDISON  
COMPANY’S PROPOSED: (A) STRANDED  
COST QUANTIFICATION MECHANISM; (B)  
PRICE PROTECTION MECHANISM; AND (C)  
UNBUNDLED RATES.

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BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

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CASE NO. 8797  
(WARRIOR RUN)

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The AES Warrior Run project (“Warrior Run”) is a PURPA project located in Western Maryland. The Potomac Edison Company (“Potomac Edison”) is obligated to purchase power from the project under an agreement first signed in January 1988, and since amended several times. The Settling Parties in Case No. 8797<sup>1</sup> agreed that the output from Warrior Run would be sold through a competitive bidding process, with the proceeds used to offset the cost of purchasing power from the project under Potomac Edison’s long-term power purchase agreement. The Commission approved that Settlement in Order 75851, dated December 23, 1999,<sup>2</sup> reaffirmed in Order 76009, dated March 15, 2000.<sup>3</sup> There have been three prior competitive solicitations for the Warrior Run output, for 2000, 2001 and 2002-04. On September 10, 2004, the Participating Active Parties<sup>4</sup> to the Settlement

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<sup>1</sup> In the Matter of the Potomac Edison Company’s Proposed: (a) Stranded Cost Quantification Mechanism; (b) Price Protection Mechanism; and (c) Unbundled Rates, 90 Md. P.S.C. 439 (1999).

<sup>2</sup> *Id.*

<sup>3</sup> In the Matter of the Potomac Edison Company’s Proposed: (a) Stranded Cost Quantification Mechanism; (b) Price Protection Mechanism; and (c) Unbundled Rates, 91 Md. P.S.C. 106 (2000).

<sup>4</sup> The “Participating Active Parties” to the Settlement Agreement include: Potomac Edison, the Commission Staff, Maryland Office of People’s Counsel, Maryland Department of Natural Resources, Maryland Energy Administration, and the Mid-Atlantic Power Supply Association, Inc. The U.S. Department of Defense, Enron Energy Services, Inc., Maryland Retailers Association, and Statoil Energy were also parties to the Settlement Agreement, but they are not involved in the current solicitation process.

Agreement filed the supporting documentation for the competitive solicitation to be conducted this year, upon Commission approval of the filing. The filing includes a proposed Request for Quotations (“RFQ”), the confidential bidder selection criteria, and the power sales agreement that will be executed between Potomac Edison and the winning bidder.

With minor exceptions, the current Request for Proposals and Power Sales Agreement are the same as those used in the previous solicitation. The Commission notes that previous filings were approved in uncontested proceedings. The Commission is satisfied that these documents will serve their intended purpose.

The new element in the current filing is the proposed bid evaluation methodology. The method was developed by an independent consultant, Levitan Associates, Inc., a company with substantial expertise in the area of wholesale market power procurement. In addition to developing this methodology, Levitan will oversee its implementation. The evaluation method is of necessity highly confidential. The Participating Active Parties, who represent normally adverse interests, have all reviewed the proposed bid evaluation method and agree that it is fully objective and will not permit any form of discrimination in favor of, or against, any potential bidder. Accordingly, the proposed form of evaluation should result in an appropriate ranking of bids received.

The Participating Active Parties believe it is in the best interests of Maryland’s ratepayers that potential purchasers of the Warrior Run output be offered prompt decisions on their bids (within 24 hours). According to the filing, “if a potential purchaser is asked to hold open a bid for a longer period of time, the bidder is exposed to additional risks imposed by the daily changes in the marketplace. Prompt decisions upon bids mitigate this risk and

will likely generate higher prices paid for the Warrior Run output and, in the end, benefit the ratepayers.” The Participating Active Parties have therefore requested prior Commission approval to select a winning bid within 24 hours after the solicitation closing, without further Commission review, but subject to compliance with the selection criteria in the filing.

The Commission does not normally grant prior approval to large energy purchases that will have a substantial impact on rates paid by customers. The Commission has done so, however, in the standard offer service procurements conducted by Maryland investor-owned utilities pursuant to the Settlements in Case No. 8908.<sup>5</sup> The Commission’s reasoning in that instance was similar to the reasons cited by the Participating Active Parties in the current filing. In particular, the Commission is aware of the risks inherent in requiring wholesale electricity suppliers to keep offers open for extended periods of time.

With regard to Warrior Run output, the prior successful solicitations impart confidence in the success of the upcoming solicitation. Moreover, as in the Case No. 8908 bidding, the Commission and the Participating Active Parties will be assisted in the evaluation process by an independent consultant. As noted above, the Commission believes the evaluation method is thoroughly objective. In short, the proposed solicitation is similar to the bid solicitations conducted under the Case No. 8908 settlements, and recently cited by the Federal Energy Regulatory Commission as a model for the competitive selection of wholesale electricity suppliers.<sup>6</sup> The Commission accordingly finds that it is in the public interest to grant prior approval to the selection of a winning bidder in the 2005 solicitation

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<sup>5</sup> *Re Competitive Selection of Electricity Supplier/Standard Offer Service*, 94 Md. P.S.C. 113 (2003); 94 Md. P.S.C. 286 (2003).

<sup>6</sup> *Allegheny Energy Supply Company, LLC*, Docket No. ER04-730-000, 108 FERC ¶ 61,082 (July 29, 2004).

for the sale of the Warrior Run output, contingent upon compliance with the bid evaluation methodology delineated in the Participating Active Parties' filing of September 10, 2004.

**IT IS THEREFORE,** this 28<sup>th</sup> day of September, in the year Two Thousand and Four, by the Public Service Commission of Maryland,

**ORDERED:** (1) The bid evaluation method proposed by the Participating Active Parties in the filing of September 10, 2004 is hereby approved;

(2) That the Participating Active Parties may select a winning bidder without further Commission review, subject to compliance with the bid evaluation criteria contained in the filing of September 10, 2004.

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/s/ Kenneth D. Schisler

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/s/ J. Joseph Curran, III

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/s/ Ronald G. Guns

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/s/ Harold D. Williams

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/s/ Allen M. Freifeld

Commissioners